

## REGULAR MEETING

April 10, 1995

The Regular Meeting of the Annapolis City Council was held on April 10, 1995 in the Council Chamber. Mayor Hopkins called the meeting to order at 7:10 p.m. and offered the invocation followed by the Pledge of Allegiance.

Council Present: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer

Alderman Hammond was absent due to illness.

Staff Present: City Attorney Goetzke, Public Works Director Patmore

Pursuant to the requirement of Maryland Annotated Code, State Government Article Section 10-509(c)(2), this statement is included in these minutes:

*A closed session of the City Council was held at 6:35 p.m., Monday, April 10, 1995, in the City Council Chamber.*

*Members Present: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer, City Attorney Goetzke, Police Chief Johnson, City Administrator Mallinoff and City Clerk Bembe.*

*The authority under which the session was closed was Maryland Annotated Code, State Government Article, Sections 10-508(a)(7) and (8). The purpose of the meeting was to consult with counsel to obtain legal advice on a legal matter and consult with staff, consultants, or other individuals about pending or potential litigation. The following action was taken:*

### **(1) Collins v. City of Annapolis**

*Alderman Turner moved to accept the following offer in settlement of Collins v. City of Annapolis:*

- 1. Occupational disability pension (66 2/3) based on 87% of salary;*
- 2. City pays no attorneys fees to Collins;*
- 3. City waives five-year review process; and*
- 4. Parties to pay costs as previously assessed.*

*Seconded. A ROLL CALL vote was taken:*

*YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff*

*CARRIED: 7-0*

### **(2) Creation of a revenue authority**

*Alderman Snowden moved to place CA-1-95 on the Council's May agenda and to request an opinion of the Attorney General regarding the question of whether the City's home rule powers authorize it to create a revenue authority. Seconded.*

*Following discussion, Alderman Gilmer moved to request an opinion of the Attorney General regarding the question of whether the City's home rule powers authorize it to create a revenue authority prior to any further action of the Council. Seconded.*

*Mayor Hopkins ruled Alderman Gilmer's motion out of order.*

*Alderman Gilmer moved to overrule the decision of the Chair. A ROLL CALL vote was taken:*

YEAS: Aldermen Johnson, Gilmer, Tullier, Turner  
NAYS: Aldermen Snowden, DeGraff, Moyer  
ABSTAIN: Mayor Hopkins  
CARRIED: 4-3-1

*Alderman Gilmer restated his motion as one to amend Alderman Snowden's motion so as to delete the placement of CA-1-95 on the Council's May agenda and to request an opinion of the Attorney General regarding the question of whether the City's home rule powers authorize it to create a revenue authority. Seconded. A ROLL CALL vote was taken:*

YEAS: Aldermen Gilmer, Turner  
NAYS: Mayor Hopkins, Aldermen Johnson, Tullier, Snowden, DeGraff, Moyer  
DEFEATED: 6-2

*A ROLL CALL vote was taken on the main motion:*

YEAS: Mayor Hopkins, Aldermen Tullier, Snowden, DeGraff, Moyer  
NAYS: Alderman Gilmer  
ABSTAIN: Aldermen Johnson, Turner  
CARRIED: 5-1-2

*Alderman Tullier moved to reconsider the previous question and amend it to delete placing CA-1-95 on the Council's May agenda. Seconded.*

*A ROLL CALL vote was taken on the main motion:*

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner,  
DeGraff, Moyer  
CARRIED: 8-0

**(3) TCI contract**

*City Attorney Goetzke reported as follows:*

1. HTS/ESPN: *TCI continues to argue that we cannot include these items. Nevertheless, TCI may be willing to include HTS in the basic or expanded basis package for 95¢ (±) cents per customer.*

Recommendation: *Withdraw this provision from the contract, provided TCI gives written assurance it will include HTS in basic or expanded basic within twelve (12) months. (No recommendation made related to possible charge per customer.)*

*Alderman Moyer moved to follow the recommendation of the City Attorney. Seconded.*

*Alderman Tullier moved to amend the recommendation of the City Attorney from twelve months to sixty days. Seconded. CARRIED on voice vote.*

*A ROLL CALL vote was taken on the main motion, as amended.*

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden,  
Turner, DeGraff, Moyer  
CARRIED: 8-0

2. Signal Quality: TCI correctly states that unless we can specify FCC and/or SCTE standard they are failing to meet, they can't satisfy our general complaints.

Recommendation: Economic Matters should study the feasibility of volunteer citizen cable board similar to that proposed last year.

Alderman Tullier moved to follow the recommendation of the City Attorney. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer

CARRIED: 8-0

3. Term: Renewal process is a 36-month process. The current franchise term is 36 months. TCI asks that we increase to a ten-year term, otherwise they cannot justify the expenditure to improve PEG.

Recommendation: Expand to 7 years with 3 year extension at City's option. This will avoid the immediate start-up of the 36-month renewal process, encourage TCI to invest in PEG improvements, insure cable services during development of alternative systems (e.g., telephone cable).

Alderman Tullier moved to follow the recommendation of the City Attorney. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Gilmer, Tullier, Turner, Moyer

NAYS: Aldermen Johnson, Snowden, DeGraff

CARRIED: 5-3

4. Subscriber Charges: TCI points out that the FCC allows it to impose "nominal charge" for disconnections not requiring service call.

Recommendation: Alter paragraph 3.18 to delete "no charge" and insert "nominal charge not to exceed \$5.00."

Alderman Snowden moved to follow the recommendation of the City Attorney. Seconded. CARRIED on voice vote.

5. Extension of Cable: TCI requests a reduction from 300 ft. of drop cable to 200 ft. that portion for which new subscribers are not charged.

Recommendation: Do not change. TCI agreed to 300 ft. during negotiations.

Alderman Snowden moved to follow the recommendation of the City Attorney. Seconded. CARRIED on voice vote.

6. PEG: Agreement does not clarify TCI is responsible for all PEG broadcasts.

Recommendation: Clarify.

Alderman DeGraff moved to follow the recommendation of the City Attorney. Seconded. CARRIED on voice vote.

7. Franchise Fee: Initial payment has come due.

Recommendation: Make franchise fee retroactive to date of this new

*contract.*

*Alderman DeGraff moved to follow the recommendation of the City Attorney.  
Seconded. CARRIED on voice vote.*

**PETITIONS, REPORTS AND COMMUNICATIONS**

1. John L. Prehn  
President, Annapolis Bed and Breakfast Association  
220 Prince George Street  
Annapolis, MD 21401

Spoke in support of the Americans with Disabilities Act and of his concerns regarding bed and breakfast fire safety provisions.

2. Greg Paige  
8 Martin Street  
Annapolis, MD 21401

Spoke regarding bed and breakfast fire safety provisions.

3. Tom Tegen  
Flag House Inn Bed and Breakfast  
26 Randall Street  
Annapolis, MD 21401

Spoke regarding bed and breakfast fire safety provisions.

4. Don Wolfrey  
College House Inn Bed and Breakfast  
1 College Avenue  
Annapolis, MD 21401

Spoke regarding bed and breakfast fire safety provisions.

5. Bill Groverman  
Prince George Inn Bed and Breakfast  
232 Prince George Street  
Annapolis, MD 21401

Spoke regarding bed and breakfast fire safety provisions.

6. Bob Munkelt  
Representing St. Anne's Parish  
945 Yachtsman Way  
Annapolis, MD

Spoke regarding the sidewalks at Church Circle and St. Anne's Church.

7. Ted Greer  
16 Fleet Street  
Annapolis, MD 21401

Spoke in opposition to Ordinance O-4-95.

8. Tom Davies

16 College Avenue  
Annapolis, MD 21401

Spoke in opposition to Ordinance O-4-95.

9. Jim Vance  
96 East Street  
Annapolis, MD 21401

Spoke in opposition to Ordinance O-4-95.

10. Allen Furth  
3 King Charles Place  
Annapolis, MD 21401

Spoke regarding bed and breakfast fire safety provisions.

11. Don Bache  
1007 Beech Street  
Annapolis, MD 21401

Commended the City Council for their efforts regarding Disability Awareness Days.

Alderman Snowden moved to approve the Minutes of February 13, 1995 and March 13, 1995. Seconded. CARRIED on voice vote.

### **ACTION ON APPLICATIONS AND APPEALS**

- R-17-95** For the purpose of approving the application of Obiso, LLC and Blackistone Corner Joint Venture for a conditional use to establish a carry-out restaurant located at Fairfax Crossing, 1100 Forest Drive in the City of Annapolis, subject to certain conditions; and all matters relating to said conditional use.

Alderman Snowden moved to adopt R-17-95. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner,  
DeGraff, Moyer  
CARRIED: 8 - 0

### **LEGISLATIVE ACTION**

1. **O-91-94** Sponsored by Alderman Turner

For the purpose of regulating the setback of electric substations from residential land uses; and all matters relating to said setbacks.

The Environmental Matters Committee and the Planning Commission reported favorably with amendments.

Alderman Snowden moved to adopt O-91-94 on second reading. Seconded.

Alderman Turner moved to amend O-91-94 as follows:

#### **Amendment No. 1:**

On Page 3, immediately preceding line 1, add the following:

"SEC. 21.04.237. ELECTRIC SUBSTATION.

"ELECTRIC SUBSTATION", FOR DETERMINING SETBACKS, INCLUDES ANY  
PIECE OF ELECTRICAL EQUIPMENT OR ELECTRICAL APPARATUS REQUIRED  
TO TRANSFORM VOLTAGE OF ELECTRICITY. IT EXCLUDES FENCES,  
LANDSCAPING AND OTHER AESTHETIC TREATMENTS."

**Amendment No. 2:**

On Page 7, strike lines 8 through 12 in their entirety and substitute the following:

"EXCEPT THAT IN ADDITION TO THE TRANSITIONAL YARD REQUIREMENT  
AND ANY OTHER YARD REQUIREMENTS, ELECTRICAL SUBSTATIONS AS  
DEFINED IN SECTION 21.04.237, SHALL HAVE A BUFFER OF AT LEAST FIFTY  
FEET FROM ANY LOTS HAVING RESIDENTIAL ZONING AND USE, PLUS ONE  
FOOT FOR EACH TWO FEET BY WHICH A BUILDING OR STRUCTURE  
EXCEEDS FIFTEEN FEET."

Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-91-94 Amended on second reading.  
Seconded. CARRIED on voice vote.

Alderman Johnson moved to adopt O-91-94 Amended on third reading. Seconded.  
A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner,  
DeGraff, Moyer  
CARRIED: 8 - 0

**2. O-97-94** Sponsored by Mayor Hopkins

For the purpose of correcting certain codification enumeration  
inaccuracies in the City Code provision regarding restaurants in the  
conservation districts; and all matters relating to said corrections.

There being no voice objection Ordinance O-97-94 was postponed.

**3. O-4-95** Sponsored by Alderman DeGraff

For the purpose of clarifying the duties and subject matters jurisdiction  
of the Rules Committee; establishing that matters shall be reported  
back to the City Council within a certain time period; and all matters  
relating to said standing committees.

The Rules Committee reported unfavorably on O-4-95.

Alderman Tullier moved to adopt O-4-95 on second reading. Seconded. CARRIED  
on voice vote.

Alderman Tullier moved to adopt O-4-95 on third reading. Seconded. A ROLL CALL  
vote was taken:

YEAS: Aldermen Tullier, Snowden, DeGraff, Moyer

NAYS: Mayor Hopkins, Aldermen Johnson, Gilmer, Turner  
DEFEATED: 4 - 4

**4. O-5-95** Sponsored by Mayor Hopkins

For the purpose of authorizing a lease agreement for the placement of a piling in the developable waterway area of Lafayette Park; and all matters relating to said agreement.

The Finance Committee reported favorably on O-5-95.

Alderman Snowden moved to adopt O-5-95 on second reading. Seconded. CARRIED on voice vote.

Alderman Tullier moved to adopt O-5-95 on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer  
CARRIED: 8 - 0

**5. O-6-95** Sponsored by Mayor Hopkins

For the purpose of authorizing the lease of certain municipal property located at the City Dock to Chesapeake Bay Foundation, Inc., at a variable rate of rental each year, for the purpose of docking and mooring the vessel known as "Stanley Norman", for the purpose of operating environmental educational field trips; and all matters relating to said lease.

The Economic Matter Committee reported favorably on O-6-95.

Alderman Tullier moved to adopt O-6-95 on second reading. Seconded. CARRIED on voice vote.

Alderman Tullier moved to adopt O-6-95 on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer  
CARRIED: 8 - 0

**6. O-7-95** Sponsored by Alderman DeGraff

For the purpose of amending the regulation governing the building bulk limitations for the PT Office and Residential Transition District; and all matters relating to said district.

The Rules Committee and Planning Commission reported favorably on O-7-95.

Alderman Tullier moved to adopt O-7-95 on second reading. Seconded. CARRIED on voice vote.

Alderman Tullier moved to adopt O-7-95 on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner,

CARRIED: DeGraff, Moyer  
8 - 0

7. **O-9-95** Sponsored by Mayor Hopkins

For the purpose of amending the City's wastewater pretreatment regulations as required by the State of Maryland Department of the Environment and to comply with regulations of the United States Environmental Protection Agency; and all matters relating to said wastewater pretreatment program.

The Environmental Matters Committee reported favorably on O-9-95.

Alderman Snowden moved to adopt O-9-95 on second reading. Seconded.

Alderman Turner moved to amend O-9-95 as follows:

**Amendment No. 1:**

On Page 10, line 41, strike immediately following "WASTEWATER" through and including "OR" on line 42.

Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-9-95 Amended on second reading. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-9-95 Amended on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner,  
DeGraff, Moyer  
CARRIED: 8 - 0

8. **O-12-95** Sponsored by Mayor Hopkins

For the purpose of authorizing the City Council to lease certain municipal property located in the general harbor and Dock Street area to United States Yacht Shows, Inc. and Annapolis Boat Shows, Inc., bodies corporate, for a certain period of time in October 1999, subject to certain terms, provisions, and conditions, for the purpose of conducting boat shows; and all matters relating to said lease.

The Economic Matters Committee and Finance Committee reported favorably on O-12-95.

Alderman Tullier moved to adopt O-12-95 on second reading. Seconded. CARRIED on voice vote.

Alderman Snowden moved to adopt O-12-95 on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner,  
DeGraff, Moyer  
CARRIED: 8 - 0



**9. O-16-95** Sponsored by Alderman Johnson

For the purpose of deleting the requirement that exterior signs over fifty square feet or more shall be heard by the City Council at a public hearing; and all matters relating to said signs.

The Rules Committee reported favorably on O-16-95.

Alderman Gilmer moved to adopt O-16-95 on second reading. Seconded. CARRIED on voice vote.

Alderman DeGraff moved to adopt O-16-95 on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer  
CARRIED: 8 - 0

**10. O-18-95** Sponsored by Mayor Hopkins

For the purpose of authorizing the lease of certain municipal property located at the City Dock to Spirit Cruises, Inc., for a certain period of time, at a certain rental and under certain terms and conditions for the purpose of docking and mooring the vessel known as "Spirit of Baltimore"; and all matters relating to said lease.

Alderman Turner moved to adopt O-18-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Economic Matters Committee and Finance Committee.

**11. O-20-95** Sponsored by Mayor Hopkins and Alderman Hammond

For the purpose of establishing parking restrictions on a certain portion of King George Street; establishing a fine and exception; and all matters relating to said restrictions.

Alderman Turner moved to adopt O-20-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Finance Committee and Rules Committee.

**12. O-21-95** Sponsored by Alderman Turner

For the purpose of establishing that the City of Annapolis shall reduce its property tax by \$.10 per \$100.00 of assessed value for Fiscal Year 1996; and all matters relating to said reduction.

Alderman Turner moved to adopt O-21-95 on first reading. Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Gilmer, Turner, DeGraff  
NAYS: Mayor Hopkins, Aldermen Johnson, Tullier, Snowden, Moyer  
DEFEATED: 5 - 3

**13. O-22-95** Sponsored by Alderman Snowden

For the purpose of revising the City of Annapolis Public Ethics Laws

to clarify those circumstances under which City employees and officials are disqualified from participating in City matters as a result of conflicts of interest; to preclude the use of prestige of one's office for personal gain; to specify restrictions on outside employment by City employees; to restrict the solicitation and acceptance of gifts; to preclude the use of certain confidential information; to provide for advisory opinions in ethics matters; and all matters relating to said Public Ethics Laws.

Alderman Snowden moved to adopt O-22-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Rules Committee.

**14. O-23-95** Sponsored by Mayor Hopkins

For the purpose of providing that appointments to mayoral ad hoc committees are exempt from the provisions of Section 2.04.040; and all matters relating to said exemption.

Alderman Snowden moved to adopt O-23-95 on first reading. Seconded. CARRIED on voice vote.

Referred to the Rules Committee.

**BUSINESS AND MISCELLANEOUS**

**1. Collective Bargaining Agreement - City of Annapolis Professional Firefighters, Local 1926**

Alderman Snowden moved to approve the Collective Bargaining Agreement between the City of Annapolis and the Annapolis Professional Firefighters, Local 1926. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Hopkins, Aldermen Johnson, Gilmer, Tullier, Snowden, Turner, DeGraff, Moyer  
CARRIED: 8 - 0

**2. Housing and Community Development Committee Minutes of March 22, 1995**

Alderman Tullier moved to adopt the Housing and Community Development Committee Minutes of March 22, 1995. Seconded. CARRIED on voice vote.

**3. Finance Committee Minutes of March 30, 1995**

Alderman Tullier moved to adopt the Finance Committee Minutes of March 30, 1995 and April 3, 1995. Seconded. CARRIED on voice vote.

**4. Payment of monthly bills**

Alderman Tullier moved to pay the monthly bills. Seconded. CARRIED on voice vote.

**5. Appointments**

Alderman DeGraff moved to confirm the Mayor's Appointment of the following

named persons as set forth in Memoranda from Mayor Alfred A. Hopkins dated April 3, 1995:

Board of Supervisors of Elections:      Richard Israel  
   Gertrude E. McGowan  
   Allen J. Furth

Environmental Commission:              Charles F. Stein, IV  
   Gregory J. Pearce

Seconded. CARRIED on voice vote.

**6.      Main Street Construction**

Alderman DeGraff moved that during the reconstruction of Main Street, the Mayor may, in his discretion, allow certain temporary banners and signs to promote the downtown businesses until such time as the Economic Matters Committee has had an opportunity to consider administrative procedures during the reconstruction. Seconded. CARRIED on voice vote.

The Council reconvened into closed session at 8:45 p.m. and moved into open session at 9:30 p.m.

- 7.      CA-1-95**      For the purpose of amending the Charter of the City of Annapolis by adding Article X to the Charter, for the purpose of creating a body politic and corporate and an instrumentality of the City of Annapolis to be known as "The Annapolis Revenue Authority" for the purpose of constructing, reconstructing, renovating, remodeling, improving, equipping, furnishing, maintaining, acquiring, operating, and financing projects on behalf of the City of Annapolis...;

Alderman Snowden moved to place CA-1-95 on the Council's May Agenda and discharge the matter from the Economic Matters, Finance and Rules Committees. Seconded. A ROLL CALL vote was taken:

YEAS:              Mayor Hopkins, Aldermen Tullier, Snowden, DeGraff, Moyer  
NAYS:              Aldermen Johnson, Gilmer, Turner  
CARRIED:      5-3

Upon motion duly made, seconded and adopted, the meeting was adjourned at 10:00 p.m.

**Patricia L. Bembe, CMC/AAE  
City Clerk**